



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/593,145

09/18/2006

Yuichi Oku

OKUY3002/GAL

8771

23364 7590 03/25/2009

BACON & THOMAS, PLLC  
625 SLATERS LANE  
FOURTH FLOOR  
ALEXANDRIA, VA 22314-1176

EXAMINER

STEELE, AMBER D

ART UNIT

PAPER NUMBER

1639

MAIL DATE

DELIVERY MODE

03/25/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/593,145	<b>Applicant(s)</b> OKU ET AL.	
	<b>Examiner</b> AMBER D. STEELE	<b>Art Unit</b> 1639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14, 18, 19, 24-49, 51, 52 and 54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-14, 18-19, 24-49, 51-52, and 54 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.
2. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.
3. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.  
Group I, claim(s) 1 and 11-14, drawn to an analytical kit.  
Group II, claim(s) 2 and 11-14, drawn to an analytical kit.  
Group III, claim(s) 3 and 11-14, drawn to an analytical kit.  
Group IV, claim(s) 4 and 11-14, drawn to an analytical kit.  
Group V, claim(s) 5 and 11-14, drawn to an analytical kit.  
Group VI, claim(s) 6 and 11-14, drawn to an analytical kit.  
Group VII, claim(s) 7 and 11-14, drawn to an analytical kit.  
Group VIII, claim(s) 8 and 11-14, drawn to an analytical kit.  
Group IX, claim(s) 9 and 11-14, drawn to an analytical kit.  
Group X, claim(s) 10-14, drawn to an analytical kit.  
Group XI, claim(s) 18, drawn to analytical device.  
Group XII, claim(s) 19, drawn to analytical device.  
Group XIII, claim(s) 24, drawn to a method.

Art Unit: 1639

Group XIV, claim(s) 25, drawn to a method.

Group XV, claim(s) 26, drawn to a method.

Group XVI, claim(s) 27, drawn to a method.

Group XVII, claim(s) 28, drawn to a method.

Group XVIII, claim(s) 29, drawn to a method.

Group XIX, claim(s) 30, drawn to a method.

Group XX, claim(s) 31, drawn to a method.

Group XXI, claim(s) 32, drawn to a method.

Group XXII, claim(s) 33, drawn to a method.

Group XXIII, claim(s) 34, drawn to a method.

Group XXIV, claim(s) 35, drawn to a method.

Group XXV, claim(s) 36, drawn to a method.

Group XXVI, claim(s) 37, drawn to a method.

Group XXVII, claim(s) 38, drawn to a method.

Group XXVIII, claim(s) 39, drawn to a method.

Group XXIX, claim(s) 40, drawn to a method.

Group XXX, claim(s) 41, drawn to a method.

Group XXXI, claim(s) 42, drawn to a method.

Group XXXII, claim(s) 43, drawn to a method.

Group XXXIII, claim(s) 44, drawn to a method.

Group XXXIV, claim(s) 45, drawn to a method.

Group XXXV, claim(s) 46, drawn to a method.

Art Unit: 1639

Group XXXVI, claim(s) 47, drawn to a method.

Group XXXVII, claim(s) 48, drawn to a method.

Group XXXVIII, claim(s) 49, drawn to a method.

Group XXXIX, claim(s) 51 and 54, drawn to a method of making a device.

Group XXXX, claim(s) 52 and 54, drawn to a method of making a device.

4. The inventions listed as Groups I-XXXX do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the common technical feature is a device comprising a first member comprising a groove 1  $\mu\text{m}$  to 5 mm wide and 1  $\mu\text{m}$  to 750  $\mu\text{m}$  deep and a second member covering the groove. The common technical feature is known in the art. For example, Sharat et al. (WO 01/61041 published August 23, 2001; provided by applicants in the IDS) teach a device comprising a first member and a second member wherein a channel is formed (i.e. groove) and the channel has the dimensions of 20-1000  $\mu\text{m}$ , 10  $\mu\text{m}^2$  to 4  $\text{mm}^2$ , and 25-500  $\mu\text{m}$  (please refer to the entire specification particularly the abstract; Figures 1A-7D; pages 3, 6-8).

5. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

6. The species are as follows:

For Groups I-X: a single, specific species of the relationship of the first and second ligands (see claims 12-13).

7. Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An

Art Unit: 1639

argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

8. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

9. The claims are deemed to correspond to the species listed above in the following manner:  
For Groups I-X: claims 12-13.

10. The following claim(s) are generic: for Group I, claim 1; for Group II, claim 2; for Group III, claim 3; for Group IV, claim 4; for Group V, claim 5; for Group VI, claim 6; for Group VII, claim 7; for Group VIII, claim 8; for Group IX, claim 9; for Group X, claim 10.

11. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the species have a different function, effect, and/or structure.

12. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

13. The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not

Art Unit: 1639

distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

14. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Future Communications***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMBER D. STEELE whose telephone number is (571)272-5538. The examiner can normally be reached on Monday through Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on 571-272-0951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1639

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Amber D. Steele/  
Patent Examiner, Art Unit 1639

March 20, 2009